

### **REMARKS**

Claims 13-15, 25 and 26 are pending in this application. Claims 13, 14 and 15 are the independent claims. As claims 13, 14 15 are only rewritten in independent form, no new matter is added that would require further consideration and/or search.

### **Interview**

A telephone interview was conducted on August 24, 2009 between Applicant's representative and Examiner Ciric. During the interview, Applicant's representative asserted that claim 12 distinguishes over the applied reference of Corbett because Corbett fails to disclose or suggest applying a cast mixture over the heat exchanger elements and the at least two branch necks so that a substantially flat cast surface is obtained. Examiner Ciric argued that, in her interpretation, the feature of claim 12 could be interpreted to mean that the cast mixture could be applied over either the heat exchangers or the at least two branch elements. Although Applicant's representative disagrees with the interpretation as being contrary to the plain meaning of the word "and", claim 12 cancelled thereby rendering the rejection moot.

### **Drawing Objections**

The drawings are objected to for allegedly failing to show elements recited in claims 2, 3, 7 and 16. As these claims are cancelled, the objection is rendered moot and should be withdrawn.

### **Objections to the Specification**

The Abstract of the specification is objected to for allegedly referring to a purported merit of the subject matter claimed in the application. As a Substitute Abstract is provided revising the Abstract to remove the objected to language, withdrawal of the objection is requested.

The specification is also objected to for recitation of "contents which is" rather than "contents of which are." The specification is amended as suggested by the Examiner. Therefore, withdrawal of the objection is requested.

The specification is further objected to for allegedly failing to provide antecedent support for "grain compositions." Applicant refers the Examiner to paragraphs [0016], [0020] and [0023] of the published application which clearly provides support for "grain compositions."

Although the specification provides clear support for the claim term, as claims 2, 3, 7 16 and 17 are cancelled, the objection is rendered moot.

### **Claim Objections**

Claims 1-5, 7-17 and 19-27 are objected to due to informalities. As claims 1-5, 7-12, 16, 17, 19-24 and 27 are cancelled, the objection to those claims is rendered moot. The remaining pending claims are amended in the manner suggested by the Examiner. Thus, withdrawal of the claim objections is requested.

### **Allowable Subject Matter**

Claims 13, 14, 25 and 26 are indicated as being in condition for allowance of rewritten in independent form. As claim 13, 14 and 15 are rewritten in independent form, those claims, as well dependent claims 25 and 26 are in condition for allowance.

### **Rejections Under 35 U.S.C. §112**

Claims 2, 3, 7, 16 and 17 are rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement because the term “grain composition” is not sufficiently supported in the specification in a manner sufficient to reasonably convey to one skilled in the art that the inventor had possession of the claimed subject matter. The rejection is respectfully traversed.

35 U.S.C. §112, first paragraph, recites

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The test for determining whether the requirements of 35 U.S.C. §112, first paragraph, are met has been established by the U.S. Supreme Court in *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) and is referred to as the “undue experimentation” test. The “undue experimentation”

test has been interpreted to require that the claimed invention be enabled so that any person skilled in the art can make and use the invention without undue experimentation. Thus, there is no requirement for literal support for a claim term.

Contrary to the Examiner's allegation, that there is no support for the claim term in the specification and the "original disclosure fails to even mention the composition of the grains," Applicant refers the Examiner to at least paragraph [0016] of the published application. The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement (MPEP §2163.03)

Although the specification complies with the requirements of 35 U.S.C. §112, first paragraph, claims 2, 3, 7, 16 and 17 are cancelled to expedite prosecution of the application. As such, the rejection is rendered moot.

Claims 2, 3, 7 and 15-18 are rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. Although the meaning of "grain composition" is readily determinable from the description provided at least at paragraph [0016] of the published application, claims 2, 3, 7 and 15-17 are cancelled, to expedite prosecution of the application. Thus, the rejection of those claims is moot. Further, as claim 18 was previously cancelled, the rejection of that claim is also moot.

#### **Rejections Under 35 U.S.C. §103**

Claims 1-5, 7-12, 16, 17, 19-24 and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,805,298 to Corbett. As claims 2, 3, 7, 16 and 17 are cancelled, the rejection of those claims is moot. As claims 1-5, 7-12, 16, 17 19-24 and 27 are cancelled, the rejection of the claims is moot.

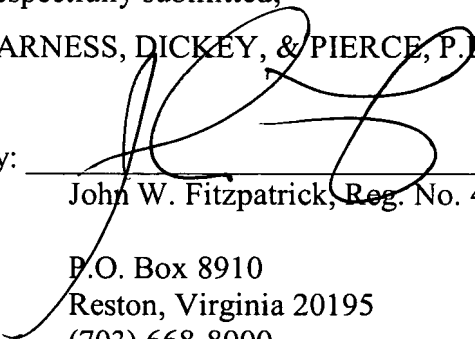
**CONCLUSION**

In view of the above remarks and amendments, the Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,  
HARNESS, DICKY, & PIERCE, P.L.C.

By:   
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